

MAY 1972

OGC HAS REVIEWED.

MEMORANDUM FOR: Office of General Counsel

THROUGH : Deputy Director for Plans
Deputy Director for Support

SUBJECT : Excess Defense Articles Ordered for Subsequent
Transfer to Foreign Countries

25X1A 1. A representative of the Comptroller General has recently made an inquiry of [REDACTED] of the Office of Legislative Counsel as to whether this Agency adheres to the provisions of Section 402 of the Foreign Assistance Act of 1971 (P.L. 92-226). In essence, what appears to be involved is whether this Agency has acquired excess defense articles since 1 July 1971 with the intent, or act, of furnishing same to a foreign government or an international organization. If the Agency has done so, then the Act calls for a specific reporting mechanism to the Congress on the facts of the matter.

2. The attachment contains a listing of excess defense articles ordered by this Office since 1 July 1971. It would appear to us that it is a matter first of operational determination and, secondly, of legal determination as to whether our handling of this materiel does, in fact, come under the provisions of the applicable statute.

3. The attachment consists of transactions which were instigated by Headquarters action. In addition to these transactions, we are aware of the fact that 25X1A [REDACTED]

materiel. While we doubt that such materiels fall under the cognizance of the applicable statute we note their existence.

4. The attachment contains an annotation giving the opinion of this Office as to whether the excess defense articles ordered by us since 1 July 1971 should or should

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not be considered for declaration under the statute. The ultimate disposition of this property, however, resides with the Deputy Director for Plans who has the authority to approve issues of materiel to foreign governments.

Signed: John F. Blake

Att
John F. Blake
Director of Logistics

cc: ExDir-Compt.
✓OLC

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gress, at least ten days prior to the date on which such excess funds are to be provided to that country or organization, each such determination, including the name of the country or organization to receive funds in excess of such per centum, the amount of funds in excess of that per centum which are to be provided, and the justification for providing the additional assistance.

"(b) The provisions of this section shall not apply in the case of any law making continuing appropriations and may not be waived under the provisions of section 614(a) of this Act.

"**SEC. 654. PRESIDENTIAL FINDINGS AND DETERMINATIONS.**—(a) In any case in which the President is required to make a report to the Congress, or to any committee or officer of either House of Congress, concerning any finding or determination under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, that finding or determination shall be reduced to writing and signed by the President.

"(b) No action shall be taken pursuant to any such finding or determination prior to the date on which that finding or determination has been reduced to writing and signed by the President.

"(c) Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

"(d) No committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, even though such report has not yet been transmitted to the appropriate committee or officer of either House of Congress.

"**Sec. 655. LIMITATIONS UPON ASSISTANCE TO OR FROM CAMBODIA.**—(a) Notwithstanding any other provision of law, no funds authorized to be appropriated by this or any other law may be obligated in any amount in excess of \$341,000,000 for the purpose of carrying out directly or indirectly any economic or military assistance, or any operation, project, or program of any kind, or for providing any goods, supplies, materials, equipment, services, personnel, or advisers in, to, for, or on behalf of Cambodia during the fiscal year ending June 30, 1972.

"(b) In computing the \$341,000,000 limitation on obligation authority under subsection (a) of this section in fiscal year 1972, (1) there shall be included in the computation the value of any goods, supplies, materials, or equipment provided to, for, or on behalf of Cambodia in such fiscal year by gift, donation, loan, lease, or otherwise, and (2) there shall not be included in the computation the value of any goods, supplies, materials, or equipment attributable to the operations of the Armed Forces of the Republic of Vietnam in Cambodia. For the purpose of this subsection, 'value' means the fair market value of any goods, supplies, materials, or equipment provided to, for, or on behalf of Cambodia but in no case less than 33 1/3 per centum of

Nonapplicability.
75 Stat. 444;
80 Stat. 805.
22 USC 2364.
Written report
to Congress.
82 Stat. 1320.
22 USC 2751
note.

Publication in
Federal Regis-
ter.

Information,
access prior
to report.

"Value".

TRANSMITTAL SLIP		DATE
TO: Office of Legislative Counsel		
ROOM NO. 7D35	BUILDING Hqs.	
REMARKS:		
FROM: Director of Logistics		
ROOM NO. 1227	BUILDING Ames	EXTENSION 2551
FORM NO. 1 FEB 55	241	REPLACES FORM 36-8 WHICH MAY BE USED.
		(47)